



Regulatory Program

INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A.COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 12 March 2019

B.ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP-2019-034

C.PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Washington County City: Forest Grove
Center coordinates of site (lat/long in degree decimal format): Lat. 45.5235°, Long. -123.0989°.
Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled "Wetland Delineation for the Hawthorne Street Stormwater Improvements Project in Forest Grove, Oregon".

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D.REVIEW PERFORMED FOR SITE EVALUATION:

- Office (Desk) Determination Only. Date: 3-1-19.
 Office (Desk) and Field Determination. Office/Desk Dates: Field Date(s): .

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: included in the "Wetland Delineation for the Hawthorne Street Stormwater Improvements Project in Forest Grove, Oregon" (WD report) dated December 6, 2018 prepared by Pacific Habitat Services, Inc..
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: submitted with WD report.
 - Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon:
Revised Title/Date: .
- Data sheets prepared by the Corps. Title/Date: .
- Corps navigable waters study. Title/Date: .
- CorpsMap ORM map layers. Title/Date: .
- USGS Hydrologic Atlas. Title/Date: .
- USGS, NHD, or WBD data/maps. Title/Date: in admin record, maps folder, titled eGIS NHD layer.
- USGS 8, 10 and/or 12 digit HUC maps. HUC number: .
- USGS maps. Scale & quad name and date: .
- USDA NRCS Soil Survey. Citation: in WD report, Figure 4.
- USFWS National Wetlands Inventory maps. Citation: in admin record, maps folder, titled eGIS NWI layer.
- State/Local wetland inventory maps. Citation: in WD report, Figure 3.
- FEMA/FIRM maps. Citation: .

- Photographs: Aerial. Citation: in WD report. or Other. Citation: in WD report.
- LiDAR data/maps. Citation:
- Previous JDs. File no. and date of JD letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

A.RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

- "navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **Complete Table 1 - Required**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B.CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. Check all that apply.

- (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))
 - **Complete Table 1 - Required**
 - This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.
- (a)(2): All interstate waters, including interstate wetlands.
 - **Complete Table 2 - Required**
- (a)(3): The territorial seas.
 - **Complete Table 3 - Required**
- (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.
 - **Complete Table 4 - Required**
- (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 5 - Required**
- (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.
 - **Complete Table 6 - Required**
 - Bordering/Contiguous.
Neighboring:
 - (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.
 - (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.
 - (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.
- (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and

require a case-specific significant nexus determination.

- (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. - Required**

- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):
 - **Complete Table 10 - Required**
 - (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.
 - (b)(2): Prior converted cropland.
 - (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
 - (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
 - (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).
 - (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.
 - (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.
 - (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹
 - (b)(4)(iv): Small ornamental waters created in dry land.¹
 - (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.
 - (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the

¹ In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹

- (b)(4)(vii): Puddles.¹
 - (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹
 - (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹
 - (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.
- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).
- **Complete Table 11 - Required.**

D.ADDITIONAL COMMENTS TO SUPPORT AJD: The wetland delineation covers the study area (i.e. the “review area”). The local NWI map shows wetlands in the vicinity. The USDA NRCS soil survey map shows hydric soils in the area. An intermittent tributary to Council Creek flows into the study area through a culvert located east of Douglas Street. The creek continues northeastward across the site to Hawthorne Street where it enters a culvert that daylight north of the railroad ROW. At the north end of the study area, the creek is bordered by a shrubby riparian community to the west and mixed shrub/herbaceous wetland to the east. The study area consists of gently sloping topography, with the lowest elevations located along the tributary to Council Creek. There was below average precipitation in the area for January-March, however the month of April rainfall exceeded average by a little over one inch. The site visit was completed on April 26, 2018 and no precipitation was recorded for 7 days prior to the site visit. Three wetlands, a tributary to Council Creek, and Tributary A were delineated within the study area.

Jurisdictional Waters of the U.S.

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2019-34 Tributary A	OR	R2-RIVERINE, LOWER PERENNIAL	AREA	0.01	ACRES	A5	45.52366	-123.09811
NWP-2019-34 Tributary to Council Creek	OR	R2UB-RIVERINE, LOWER PEREN, UNCONSOL BOT	AREA	0.39	ACRES	A5	45.52231	-123.10086
NWP-2019-34 Wetland A	OR	PFO-PALUSTRINE, FORESTED	AREA	0.03	ACRES	A6N1WB	45.52185	-123.1033
NWP-2019-34 Wetland B	OR	PFO-PALUSTRINE, FORESTED	AREA	0.24	ACRES	A6BOHWM	45.522	-123.10286
NWP-2019-34 Wetland C	OR	PSS-PALUSTRINE, SCRUB-SHRUB	AREA	0.17	ACRES	A6BOHWM	45.52386	-123.09808

Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
N/A	Choose an item.	N/A

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A
N/A	N/A

Table 5. (a)(5)Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
Tributary to Council Creek	Intermittent	Willamette River	Yes	An intermittent tributary to Council Creek (0.39 acre, R2UB3) flows east through much of the southern portion of the study area. The creek enters the site via a culvert under Douglas Street, flows NE and enters a 140-foot culvert that takes it under Hawthorne Street and the Railroad ROW. For the tributary to Council Creek, the OHWM was determined to be the top of bank. It meets the definition of a tributary because it is a water that contributes flow either directly or through another water to a water identified in (a)(1) to (a)(3), and is characterized by presence of bed and banks and OHWM. It flows to Council Creek, Dairy Creek, Tualatin River, and then the Willamette River.

Tributary A	Intermittent	Willamette River	Yes	Tributary A (0.01 acre, R4SB5) is located in the eastern portion of the site, south of Wetland C. Though located within an excavated ditch line along the south side of the railroad ROW, the presence of flowing water in late April, following a period of at least 7 days with no rainfall, confirmed a hydrologic source including more than just direct runoff. As such, the feature was identified as an intermittent feature. A culvert at the ditch's western limits allows for the conveyance of water directly into the larger culvert conveying the tributary to Council Creek from Hawthorne Street to beyond the railroad ROW. During high flows, Council Creek culvert will discharge water into Tributary A and Tributary A will remain backwatered until downstream water levels drop. It meets the definition of a tributary because it is a water that contributes flow either directly or through another water to a water identified in (a)(1) to (a)(3) and is characterized by presence of bed and banks and OHWM. It flows to the Willamette River through the Tributary to Council Creek.
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Table 6. (a)(6) Adjacent Waters

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.
Wetland A	Tributary to Council Creek	Wetland A is a small PFO 0.03 acre wetland located north of the tributary to Council Creek in the western portion of the study area. Wetland A does not extend offsite and is bound on all sides by slightly higher topography. It is an a6 adjacent water (neighboring). It is about 30 feet from the Tributary to Council Creek (neighboring is within 100 feet of OHWM of a5 water). The limits of the wetland were established using the 87 Manual and Regional Supplement (refer to WD report).
Wetland B	Tributary to Council Creek	Wetland B is a 0.24 acre PFO wetland that borders the north bank of the tributary to Council Creek in the west-central portion of the study area. It is an a6 adjacent water. It borders the Tributary to Council Creek which is an a5 water. The limits of the wetland were established using the 87 Manual and Regional Supplement (refer to WD report).

Wetland C	Tributary to Council Creek	Wetland C includes a small portion of a much larger wetland that borders the east side of the tributary at and north of the eastern limits of the study area. The onsite portion of Wetland C is 0.17 acre (PSS) and it extends offsite to the east. It is an adjacent water (bordering). It borders the Tributary to Council Creek. The limits of the wetland were established using the 87 Manual and Regional Supplement (refer to WD report).
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Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
N/A	N/A
N/A	N/A

Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A